

**BOARD OF APPEALS CASE NO. 5156**

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**BEFORE THE**

**APPLICANTS: August C. Weber, III**

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**ZONING HEARING EXAMINER**

**REQUEST: Variance to allow a free-standing sign within the required setback in the RO District; 2222 Old Emmorton Road, Bel Air**

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**OF HARFORD COUNTY**

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**Hearing Advertised**

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**Aegis: 8/3/01 & 8/8/01**

**HEARING DATE: September 24, 2001**

**Record: 8/3/01 & 8/10/01**

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## **ZONING HEARING EXAMINER'S DECISION**

The Applicant, August C. Weber, III, is seeking a variance, pursuant to Section 219-5B of the Harford County Code, to allow a free-standing sign to be less than the required eleven (11) foot eight (8) inch building setback (proposed 1 foot 2 inches) in an RO District.

The subject property is located on the west side of Emmorton Road, one thousand (1000) feet south of Laurel Bush Road in the First Election District, and is more particularly identified on Tax Map 56, Grid D3, Parcel 247. The property consists of approximately 1.28 acres, and is zoned RO, Residential Office.

Mr. L. Gerald Wolff, a professional land surveyor and President of L.G. Wolff Associates, Inc., appeared and testified that the subject property is owned by the Applicant, August C. Weber, III. He described the property as an "L" shaped lot, with substantial frontage on Route 924, but with no access to that road from the property. He introduced a site plan of the property (Applicant's Exhibit 1), which shows that the property is improved by an existing frame office building and a parking area. According to the witness, the existing building is used by the Applicant as a dental office.

Mr. Wolff testified that the site plan shows the location of the requested sign, which was originally installed pursuant to Permit No. 2000320B0210, issued on November 15, 2000. The permit required that the sign be located a minimum of eleven (11) feet six (6) inches from the front property line. After the sign was erected on the property, the Applicant received a violation notice from the Department of Planning and Zoning, advising him that the sign encroached into the right-of-way for Old Emmorton Road.

The witness testified that after the aforesaid notice was received, he and the Applicant met with the Department of Planning and Zoning to explore the possibility of

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relocating the sign. It was determined at that meeting that there is no other suitable location for placement of the sign on the property.

Mr. Wolff also testified that placing the sign further back on the subject property would create a hardship, because the sign would then be obscured from view by two very large maple trees located on the property--one to the north and one to the south of the requested sign. The trees are close to the road. One of the trees is 54 inches in diameter and the other is 27 inches in diameter. According to the witness, if the sign were moved further back from the property line, the trees would have to be removed in order for the sign to be visible to passing motorists. The witness further testified that visibility of the sign is also obstructed by a large hedge located on the adjoining property to the north of the sign.

Mr. Wolff then testified concerning the photograph designated as “Attachment 6A” to the Department of Planning and Zoning’s Staff Report. He indicated that the photograph on the top right side of Attachment 6A shows that the sign is barely visible above the hedge on the north side of the adjacent property. Attachment 6B shows the maple trees on either side of the sign.

The witness then testified that there are similar signs located in the neighborhood, including one for a dance studio slightly to the south of the subject property. There is also a temporary real estate sign located on the property across the street. According to the witness, the requested sign is compatible with other signs found in the neighborhood and causes no adverse impact to any adjoining properties.

Mr. Anthony McClune, Manager, Division of Land Use Management for the Department of Planning and Zoning appeared and testified regarding the findings of fact and recommendations made by the Department. Mr. McClune stated that the Department recommended approval of the subject request in its July 12, 2001 Staff Report. He testified that the subject property is unique because it is an irregular shaped parcel with frontage on two roads, but with access from only one of those roads. He also testified that there are two large trees in the front yard, and a hedge and trees on the adjacent lots, making it difficult to locate a sign on the property.

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The witness stated that the trees enhance the property and help to maintain a residential appearance. Placing the sign further away from the property line would require removal of the trees, and the witness stated that, in his opinion, this would be contrary to general principals of planning and zoning. Mr. McClune further testified that there are numerous commercial uses along Old Emmorton Road, and the granting of the requested variance will have no adverse effect on either the adjacent properties or the intent of the Code.

No witnesses appeared in opposition to the subject request.

### **CONCLUSION:**

The Applicant is seeking a variance pursuant to Section 219-5B of the Harford County Code to allow a free-standing sign with less than the required eleven (11) feet eight (8) inches setback (1 foot 2 inches proposed).

The following provisions of the Harford County Code are relevant to the subject request:

Section 219-5 of the Harford County Sign Code provides:

“Freestanding signs. A freestanding sign shall include any sign supported by uprights or braces placed upon the ground and not attached to any building. Business signs may be freestanding if the property has a minimum of forty (40) feet of road frontage. The sign area shall be calculated on the basis of one (1) square foot of sign for every foot of property road frontage. However, the maximum area of any freestanding sign shall not exceed two hundred (200) square feet. The setback measured to the edge of the sign shall be equal to one-third (1/3) of the required building setback. Unless otherwise provided herein, the maximum height allowed for any freestanding sign is thirty-five (35) feet above the nearest public road grade.”

Section 219-17 of the Harford County Code provides:

“The Board may grant a variance from the provisions of this chapter if, by reason of the configuration or irregular shape of the lot or by reason of topographic conditions or other exceptional circumstances unique to the lot or building, practical difficulty or unnecessary hardship results. The Board shall, before granting the variance, make a written finding as part of the record that the conditions or circumstances described are unique to the lot or building, that the conditions or circumstances cause the difficulty or hardship and that the variance can be granted without impairment of the purpose and provisions of this chapter.”

Based upon the testimony of the Applicant’s representative, who is a professional land surveyor, the testimony of Mr. Anthony McClune, and the findings and

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recommendation of the Department of Planning and Zoning, the Hearing Examiner finds that the configuration of the subject property is unique. The lot is “L” shaped with substantial frontage on two roads, but has access from only one of those roads. There are two large trees on the lot, as well as a hedge and trees on the adjoining parcel which limit the area available for placement of a sign on the property.

The Hearing Examiner also finds that the proposed location is the only place on the subject property where the requested sign can practically be located. Placing the sign further back from the property line would create a hardship because it would require the removal of two large trees. In addition, even if the trees were removed, the sign would still be obstructed by the hedge and trees located on adjoining properties and would, therefore, be difficult to see from the road.

The Hearing Examiner further finds that the granting of the requested variance will have no adverse impact on adjoining properties and will not impair the intent of the Harford County Zoning Code or Sign Code. There are numerous existing commercial uses along Old Emmorton Road, and there are similar signs located in the neighborhood of the subject property.

The Hearing Examiner recommends approval of the request, subject to the Applicant obtaining any and all necessary permits and inspections.

Date     OCTOBER 24, 2001

Rebecca A. Bryant  
Zoning Hearing Examiner